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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Gerry Mavin

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7590

04/23/2008

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CHICAGO, IL 60606

EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,760	<b>Applicant(s)</b> MAVIN ET AL.	
	<b>Examiner</b> NIKI M. ELOSHWAY	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-7,10-12,14,17,18 and 22-32 is/are rejected.
- 7) ☒ Claim(s) 4,8,9,13,15,16 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                          |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                              | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                     | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/8/05, 8/16/06</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 does not specify upon which claim it is dependent. The metes and bounds of the claims cannot be ascertained.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 23, 28, 29, 31 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. (WO 99/37547). Adams et al. teach a closure system, shown in figure 3, having an integrally molded cap 36, neck 17 and tamper evident means 26. The cap 36 cannot be removed from the neck when the tamper evident means is intact. Elements 39 are engagement means of the closure. The annular plug is shown at 41.
5. Claims 1-3, 5-7, 10-12, 17 and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Luch (EP 0,502,716). Luch teaches closure system, shown in figure 2, having a cap 51, a neck 42, and tamper evident means 61. The tamper evident means does not remain intact when the closure is removed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luch (EP 0,502,716) in view of Brach (U.S. 4,126, 240). Luch discloses the claimed invention except for the frangible connections being a plurality of frangible tabs. Brach teaches that it is known to provide connections which are a plurality of frangible tabs (see element 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure system of Luch with the frangible connections being a plurality of frangible tabs, as taught by Brach, in order to allow for easier tearing of the frangible connection.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luch (EP 0,502,716)). Luch discloses the claimed invention except for the angle of the transition member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure system of Luch with the transition member extending at an angle between 22 and 32, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (WO 99/37547) in view of Weiler (U.S. 5,740,931). Adams et al. disclose the claimed invention except for the neck being the neck of a container. Weiler teaches that it is known to provide a neck and closure assembly which is integrally molded with the container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure system of Adams et al.

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with the neck being molded with the container, as taught by Weiler, in order to easily form a complete container wherein the neck cannot be removed from the container body.

***Allowable Subject Matter***

10. Claims 4, 8, 9, 13, 15, 16 and 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the integrally molded closure and neck.

12. THIS ACTION IS NON-FINAL.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIKI M. ELOSHWAY whose telephone number is (571)272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Niki M. Eloshway/  
Niki M. Eloshway  
Examiner  
Art Unit 3781

NME